

EXHIBIT 6

Declaration of David A. Lubarsky, M.D.

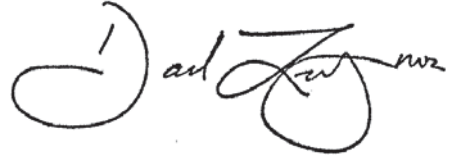
David A. Lubarsky, M.D., being of lawful age and a resident of the state of Florida, declares the following.

1. My name is David A. Lubarsky. I am a licensed medical doctor. I provided expert testimony in the case of *Abdur'Rahman, et al. v. Parker, et al.*, Case No. 18-183-III. My credentials are contained in the transcript of my testimony and curriculum vitae. The court accepted me as an expert in anesthesiology and pain management.
2. Counsel for the Abdur'Rahman plaintiffs asked me to review a video of the complete press conference conducted immediately after the execution of Billy Ray Irick on August 9, 2018, as well as published media accounts of the execution. It is my understanding that the video of the press conference was live-streamed on multiple media websites and then posted to the web. I was provided the complete unedited video.
3. The official media witnesses describe physical behavior of Mr. Irick after the drugs were administered that I recognize to be signs that Mr. Irick was not in a plane of surgical anesthesia during his execution. This is important because an inmate who is not placed in a plane of surgical anesthesia is not protected from the subsequent torturous effects of the lethal injection process. These signs and indicators include that Mr. Irick "gulped for an extended period of time" was "choking" "gasping" "coughing" and that "his stomach was moving up and down." Published media accounts report, "Irick did appear to react physically to the [vecuronium bromide]. He jolted and produced what sounded like a coughing or choking noise. He moved his head slightly and appeared to briefly strain his forearms against the restraints." Steven Hale, *The Execution of Billy Ray Irick*, Nashville Scene, August 10, 2018.
4. I also learned that Mr. Irick's hands were wrapped in tape and secured to the gurney.

5. During my testimony I discussed physical signs that indicate that a person is not in a plane of surgical anesthesia, which include hand movement. A trained observer knows that if a patient moves his fingers or hands that is a clear indicator that they are not anesthetized.
6. The taping of Mr. Irick's hands affirmatively prevented the Warden from observing an important indicator that Mr. Irick was not anesthetized. The taping of an inmate's hands is not necessary because the inmate's wrists are restrained, which is more than sufficient to prevent the inmate from pulling out the catheter.
7. The failure to place Mr. Irick in a plane of surgical anesthesia means that he was sensate when the chemicals were introduced into his system. As Dr. Greenblatt, Dr. Stevens, and I explained in detail, this means that when Mr. Irick experienced noxious stimuli, he was roused into awareness because at most he was only sedated.
8. The noxious stimuli include the pulmonary edema caused by the pH of midazolam when injected as well as the suffocation from the vecuronium bromide and the excruciating burning pain caused by the potassium chloride.
9. Based on the review of the media accounts, I conclude to a reasonable degree of medical certainty that Mr. Irick was aware and sensate during his execution and would have experienced the feeling of choking, drowning in his own fluids, suffocating, being buried alive, and the burning sensation caused by the injection of the potassium chloride.

I declare under the laws of the United States, the State of Tennessee, and penalty of perjury, that the foregoing is true and correct to the best of my information and belief.

Dated this 2nd day of September, 2018.

A handwritten signature in black ink, appearing to read "David Lubarsky" with a stylized flourish at the end.

David A. Lubarsky, M.D.